IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2006

CORAM:

THE HON'BLE MR. JUSTICE K.MOHAN RAM

W.P.No. 10702 of 2006

H. Khasi Sherif ... Petitioner

Vs

1. The Chairman,
Tamil Nadu Electricity Board,
Chennai.

2. The Assistant Engineer,
Tamil Nadu Electricity Board,
Thiruvalam Village,
Vellore District ... Respondents

Prayer : The Writ Petition filed under Article 226 of the Constitution of India for issue of Writ of mandamus directing the second respondent to provide electricity connection to the house and building situated at No.74, Thiruvalam Village, Vellore District.

For Petitioner : Mr. K. Kizar Basha

For Respondents : Mr. K. Saravanan
for Mr. N. Srinivasan

O R D E R

Mr. K. Saravanan , learned counsel representing Mr. N. Srinivasan, learned standing counsel for the Tamil Nadu Electricity Board, takes notice for the respondents. With the consent of both the counsel, the writ petition itself is taken up for final disposal.

2. The above writ petition has been filed for issuance of a writ of mandamus to direct the second respondent to provide electricity connection to the house and building situated at No.74, Thiruvalam Village, Vellore District.

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3. The necessary facts which are sufficient for disposal of the writ petition are set out below:

(i) It is the case of the petitioner that the house and building situated at No.74, Thiruvalam Village, Vellore District comprised in S.No.204, belongs to him and the property tax receipts stands in the name of the the petitioner and his mother.

(ii) It is the further case of the petitioner that he had submitted an application before the second respondent on 02.01.2006 along with local Village Administrative Officer certificate and also furnished the property tax receipts along with the application. The second respondent insisted the petitioner to execute the Indemnity Bond along with the application. According to the petitioner, Indemnity Bond was also executed on 06.02.2006. In spite of the compliance of the requirement as contemplated in Clause 27 (4) of the Tamil Nadu Electricity Distribution Code, the second respondent has not provided the electricity connection and hence the above writ petition has been filed.

3. Heard both sides.

4. Learned counsel for the petitioner made his submission on the basis of Clause 27 (4) of the Tamil Nadu Electricity Distribution Code 2004, which reads as follows :

> An intending consumer who is not the owner of the premises he occupies shall produce a consent letter in Form 5 of Annexure III to this code from the owner of the premises for availing the supply. If the owner is not available or he refuses to give consent letter, the intending consumer shall produce proof of his/her being in lawful occupation of the premises and also execute an Indemnity Bond in Form 6 of Annexure III to this code indemnifying the licensee against any loss on account of disputes arising out of effecting service connection to the occupant and acceptance to pay security deposit twice the normal rate.

5. In this case, the petitioner has produced property tax receipt and the Village Administrative Officer's Certificate, which prima facie show that the petitioner is the owner of the property. If the person applying for the service connection happen to be the owner of the premises occupied by him, then Clause 27(4) of the Tamil Nadu Electricity Distribution Code 2004 will not

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apply. The condition contained in Clause 27(4) of the said code applies for the case of an intending consumer, who is not the owner of the premises occupied by him. Even so, as could be seen from the legal notice issued by the petitioner to the second respondent he had undertaken to execute the indemnity bond and in fact had enclosed a photocopy of the indemnity bond along with the legal notice. The second respondent has not sent any reply for the legal notice. In spite of the above said facts, the second respondent has failed to provide the service connection to the petitioner.

6. In such circumstances, the second respondent is directed to provide the electricity service connection sought for by the petitioner to the property situated at No.74, Thiruvalam Village, Vellore District within a period of three weeks from the date of receipt of a copy of this order without insisting for the execution of Indemnity Bond, if there is no objection from the petitioner's mother and if the petitioner's mother who is admittedly a co-owner of the property raises any objection, then the second respondent can call upon the petitioner to execute the indemnity bond and on the execution of the Indemnity Bond by the petitioner, the respondent shall provide the electricity service connection as directed above.

The petition is disposed of with the above directions. No costs.

rj

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Chairman,
   Tamil Nadu Electricity Board,
   Chennai.

2. The Assistant Engineer,
   Tamil Nadu Electricity Board,
   Thiruvalam Village,
   Vellore District

+ one cc to K. Kizar Baskar, Advocate sr no. 19690

MF(CO)
NM(24.04.2006)

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